

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, NORTH ATLANTIC
ENERGY CORPORATION, NORTHEAST
UTILITIES, and NORTHEAST
UTILITIES SERVICE COMPANY,

Plaintiffs

v.

DOUGLAS L. PATCH, Chairman of
the Public Utilities Commission
of the State of New Hampshire,
BRUCE L. ELLSWORTH, Commissioner
of the Public Utilities Commission
of the State of New Hampshire,
and SUSAN S. GEIGER, Commissioner
of the Public Utilities Commission
of the State of New Hampshire,

Defendants

*Chief Judge of the District of Rhode Island, sitting by designation.

Exeter & Hampton Electric Company, and Unitil Power Corporation (collectively "Unitil"). For the reasons outlined in this memorandum, the Court chooses to defer judgment on these motions at the present time.

It is clear from the pleadings that a threshold question in this case is whether the Court should abstain from reaching the merits of plaintiffs' allegations until all state administrative proceedings and appeals relating to this matter have been concluded. With this in mind, the Court suggests that the most prudent and appropriate approach to the management of this case requires the Court to resolve the abstention issue first, and to postpone a decision on the motions to intervene until after this threshold question has been answered.

To this end, the hearing scheduled for March 20, 1997 will be limited to addressing the applicability of the abstention doctrines to the present case. The Court will hear arguments and take all evidence relating to the question of abstention from plaintiffs and defendants, and will allow both sides to file post-hearing legal memoranda in support of their positions. At the conclusion of the hearing, the Court will take the matter under advisement, and will write an opinion resolving the issue in due course. At that time, if the Court chooses not to abstain, the Court will issue its decision on the motions to intervene, and will hold a hearing on preliminary injunction shortly thereafter.

Additionally, the Court is satisfied that the parties to

this litigation adequately represent both sides of the abstention issue, and will be able to present all the arguments both in favor of and against abstention with full force and vigor. Therefore, only the parties named in the complaint will be allowed to participate in the hearing on March 20. However, the Court does wish to afford the potential intervenors an opportunity to be heard on the abstention issue, if they so desire. To this end, the potential intervenors will be allowed to file post-hearing briefs on the question of abstention as amici curiae, which the Court will consider together with the legal memoranda submitted by the parties. The time for filing said memoranda will be fixed at the hearing.

After said hearing, the Court will issue an order maintaining the status quo ante until such time as the abstention issue is decided.
It is so ordered.

Ronald R. Lagueux
District Judge
March 17, 1997